

## Appraising the Universal Concepts of Insurance and Takaful: Similarities and Differences

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### Abstract

Social security is a crucial part in human life, which is consisted pre-arrangements against risky life. Takaful is an essential approach which provides confidence and ethical guidelines in protecting assets. Takaful, is considering Shari'ah principles, also applies the same principles of insurance for its operation even though insurance consists of some prohibited elements in Islam. The objectives of this study are to analyse the governing principles of insurance and takaful and explain how Islam focuses on these principles and ethical aspects in takaful operation from Shariah perspective. The study is designed as documentary research which provides conceptual and theoretical knowledge, and it uses secondary sources such as journal articles, books, reports, as well as main sources of Islamic law. Findings of the study are that principles that are applied in takaful comply with shariah. Similarly, Shari'ah usually does not prohibit general guidelines which are created even in conventional institutions; however, it strictly prohibits the elements which are nocuous to the community. The advantage of takaful is making confidence and truth under religion, which is to be applied in transactions, social life to be free from fear, privation, and poverty. This research supports to takaful researchers and operators to be educated strongly on principles with shariah views and takaful's importance.

*Keywords:* Takaful, Islam, Shari'ah and Insurance Principles.

## 1.0 INTRODUCTION

Islam is a religion which guides whole communities how they can live with fulfillment of their lives towards the victory in the world as well as hereafter (Zubair, 2015). Arrangements for survival of every community are made in different ways according to their culture and experience. Economics is a way of surviving lives among others in the dynamic world that includes finance, banking, transactions, and risk management. In the current world, people who involve in the business might be struggling with risk and try to overcome risk to save their capital. In this line, risk covering mechanism is needed for the above goals. Nowadays risk recovering concept is being studied in various ways. Such risk management studies are available not only in conventional finance sector but also in Islamic finance. There are thousands of people possessing sufficient capital, but they fear to involve even in micro and small business because they think that their business might be lost; and that loss could not be recovered by accepted ways in shari'ah (Marikar, 2015). Insurance and takaful give confidence to individuals and business entrepreneurs to conduct all types of businesses in order to recover their losses, in case of its occurrence. While insurance has long experience, institutionally, takaful has been introduced as an alternative approach to insurance in Sudan in 1979 (Husin & Rahman, 2016). It shows direction to commercial economic transaction complying with Islamic shari'ah free from unethical elements such as interest, gambling, and uncertainty (Kasim et al., 2016).

The word takaful is derived from the Arabic word '*kafala*' which is guaranteeing for others, taking trust on others, look after (Billah, 2003; Engku Rabiah & Hassan, 2008) based on solidarity, brotherhood, mutual assistance, and donation (Billah, 2003; Jaffer, 2007; Simon Archer et al., 2009). Charity (*tabarru'*) and mutual assistance (*ta'awun*) are two very profound principles which are very distinct and unique in takaful which join the humanity through help each other. Takaful differs from insurance in several reasons; conventional insurance is a method of risk transfer, because in which the premium which paid periodically to the insurer who is in charge of process. Settlement of claim, period coverage, limit of compensation and indemnity are determined by the insurer. However, takaful makes a risk bearing pool called *tabbaru'* fund with participants' contributions, and risks will be shared among the participants according to them and the surplus money belongs to the participants. The all participants in takaful contract agree to donate their premiums called contribution with ideal intention of mutual assistance (Yassin & Ramly, 2011; Abduh, 2019). Thus, this charity (*tabarru'*) fund is full of good intention to assist to whom are under risks. Conventional insurance is not a shariah compliant which includes the elements which are prohibited in Islam such as gambling, uncertainty and interest. Assistance to others, sharing risks and support to others are permissible and motivated in Islam. The following Al-Quran verse being evidence and confirm the stance. "...help one another on goodness, righteousness, and piety, and do not help another in sin and aggression; and be carefull of Allah; surely Allah is severe in penalty" (Al-Maidah (5):2). Thus, *tabarru'* and *ta'awun* differ takaful from conventional insurance.

In addition, according to Alhabsi et al. (2012) and Mazahir et al. (2017), takaful is defined as "a scheme based on brotherhood, solidarity and mutual assistance which provides mutual financial assistance to the participants in case of need whereby the participants mutually agree to contribute (as a charity work) for that purpose, does not involve anything that are prohibited in Islam." According to the definition given by AAOIFI "takaful is run systematically by the participants' (policyholder) donation partially or whole portion to compensate for the losses suffered by any partner of the gathering" (Kasim et al., 2016).

Takaful products are widely offered around the world based on Islamic perspective. Takaful business market penetration is grown with many fully-fledged, subsidiaries, and takaful windows in the financial institutions. In the takaful market, totally 324 takaful operators including fully pledged and window operators from 47 countries with market value of USD 46 billion (IMARC Group, 2020; Sopian & Azmin, 2021). According to Shammari et al. (2019), GCC lead takaful

market with having USD 12,573 million premium from 75 takaful companies of 12% growth rate. Saudi Arabia (38%), Iran (34%), and UAE (6.3%) are first three platforms in GCC in the takaful market, as well as Malaysia (25%) leads Asian region. However, the takaful sector is predicted to gain USD 86 billion in 2022 (IFDI report, 2017; IFSB, 2018).

Takaful also has a good and strong market penetration like insurance sector globally because the risk-taking mechanism and the way of tackling with losses are almost fit mutually. The research problem is that the same principles which are applied in both insurance and takaful such as utmost good faith, insurable interest, proximate cause, indemnity, subrogation, and contribution are used in takaful products even though takaful is introduced in the light of Islamic principles (SAC, 2010; Ahcene, 2016). However, the establishment of takaful which is an alternative for insurance is that how takaful uses the insurance's principles. Thus, public are confused on the principles that they are being applied in both insurance and takaful, where there is a necessity arises that the real nature of the principles that in takaful application too. This aspect makes public to think improper on takaful concept, its application, and contributions. Surely, it is very contravening with Islamic perspective of takaful and risk sharing mechanism. Moreover, according to Alhabsi et al. (2012), same principles direct to the better understanding of construct of insurance. Therefore, this research article will explain how the insurance principles are used in Islamic insurance. Accordingly, the objectives of this paper are to examine the principles in shariah view that are applied in both insurance and takaful, and to explain the justification from shari'ah view for applying principles which are applied in takaful too.

## **2.0 RISK MANAGEMENT IN ISLAM**

The word "risk" is derived from the Arabic word "risq" or latin word "riscum" it means referring the barriers presents on unfavourable events (Kedar, 1970; Grecu, 2015). The real meaning of the term risk is "the gap between the expected outcome and real outcome" and risk may be expected or unexpected occurrences. Risk has been dicussed in various academic studies (Daher et al., 2015; Trieschmann et al., 2015; Violeta, 2015). In this respect, earning and protecting properties play a key role in shariah perspective to survive. Islamic finance deals with risk management challenges namely (1) shari'ah related risk, (2) financial risk, (3) legitimacy risk, (4) credit risk and (5) liquidity risk (Nooraslinda et al., 2011). Risk management is accepted in Islam, and it intends to reduce anticipating losses or perils through mitigating financial cost (Malim, 2015). Several examples in Islamic history can be prefixed to risk management; for example, for escape from Quraysh leaders, prophet (PBUH) replaced his nephew Ali when he left Mecca to Madinah. Eventually, the god never allows to the destruction of human being although all what are going to happen is planned by Allah. "It is very near by Khatr, which is an exposure to damage", and Al Quran verse (Baqarah: 195) speaks the practice of risk management (Mohd Noor et al., 2018). Risk management is a high-level expectation of Maqasid al Shariah, in which protection of wealth (*Hifz al-mal*), is demanded like other objectives namely protection of religion, human life, human intellect and human conscience in Islamic jurisprudence (El-Sheikh, 1987). Al-Quran says.

*"And spend in the way of Allah and cast not yourselves to perdition with your own hands and do good (to others); surely Allah loves the doers of good."* (Al-Baqarah (2):195)

According to the verse, Islam never accepts making them burden and cast themselves, however, it strongly motivates human beings to be prepared to survive the life provided them. Moreover, Al-Quran speaks the importance of risk management. The God says in Surah Yusuf (12) verses: 46 to 49 are example.

*He said: Yusuf, O man of truth, explain to us about seven fat cows eaten by seven (that were) lean, and seven green spikes (of grain) and others (that were) dry- that I may return to the people; perhaps they will know (about you).* (Yusuf: 46)

*Yusuf said: you will plant for seven years consecutively; and what you harvest leave in its spike, except a little from which you will eat. (Yusuf: 47)*

*Then will come after that seven difficult (years) which will consume what you saved for them, except a little from which you will store. (Yusuf: 48)*

*Then will come after that a year in which the people will be given rain and in which they will press (olives and grapes). (Yusuf: 49)*

This happens based on the dream of the king of Egypt. Prophet Yusuf interpreted about the dream which Egypt would face a drought for a seven-years then it would be prosperity. Accordingly, they were needed to grow food during next seven years, thus, prophet Yusuf was appointed as agriculture minister and he implemented a plan, the result rate of hunger and starvation was reduced during disaster period, and it was saved the whole people during that drought seven-years. It strongly declares that the importance of the risk management and teach how we should keep our pre-arrangements against disaster and risks (Noor Mohd et al., 2018).

In this respect, takaful is considered as a method of mitigating losses and it is one of the options available in risk management chapter (Alhabsi et al., 2012; Metenggo, 2020), and takaful is considered as a risk management approach that primarily used to hedge against the pure risk of contingent, uncertain loss occurred purely (Jassem, 2017). The following Quranic verses are the evidence for being secure or preparing against the disaster we do face in our lives.

*“...and put your trust on Allah if you are believers.” (Al-Maidah (5):23)*

*“...surely Allah does not change the condition of people until they change their own condition.” (Al-Ra’d (13):11)*

*“Those who die and leaves wives behind, (make) a bequest in favour of maintenance for their wives for a year...” (Al-Baqarah (2):240)*

All quranic verses expect to strong intention to put on Allah, followed by everyone to make necessary arrangements for their future endeavours. It is noted that Allah never concerns anybody unless they concern or will their-selves. Islamic history also teaches the current generation how they decided as risk management and how the victims and their heirs were treated; it was taken the responsibility to provide compensation (Abduh, 2019). Moreover, Al-Quran and Hadiths require that not to leave the family members with empty hands and encourages to prepare for the children for their better future (Alhabsi et al., 2012).

Anas bin Malik (RA) narrated that.

*“A Bedouin who entered the mosque leaving his camel outside while untied. Prophet (PBUH) said that; ‘Tie your camel first, then, put your trust on Allah (In sha Allah).’ (Sunan al Tirmidhi: 2517)*

The Quran verse 2: 195 is also declares closer meaning to this hadith. These Quran and sunnah verses teach and encourage us to decide properly rather than merely putting trust on Allah (Lahsasna, 2013). Risk management can be carried out by anyways or even it might be from conventional financial practices; however, it should not be contrary to shari’ah principles.

### **Islamic Perspective on Insurance**

Insurance is one of the risks mitigating techniques which is applied in all human being’s affairs by a contract, where the relationship is made between insured and insurer with the expectation of claiming for the damages through the risk transfer mechanism (Dorfman, 2005; Sharma, 2009). Insurance had existed in the Islamic history called *Aqilah*. The concept of *diyāt* (blood money)

closest to *aqilah* which was practiced, where heirs of killed people in the fight were compensated (Abduh, 2019). The following incident confirms the existence of practice.

One of the women with a baby inside womb was killed by threw a stone in the fight among two women in Huzhail tribe. The case comes to prophet (PBUH) and adjudicated that the killer to free a slave (either male or female) for the baby inside of womb; and the family of killer was requested to give blood money (*diyat*) to the victim's family" (Muttafaq' alihi). This practice clearly declares that everyone should be financially prepared, and victim's family or heirs should not be abandoned. It similarly fits with present insurance operations (Abduh, 2019). Insurance can be defined in many ways. According to Alhabshi (2021), insurance is based on the discovery of a useful social scientific principle eventhough it is prohibited in Islam, individuals can be free from incurring financial losses because of perils, and accidents whose incidence can be measured accurately in relation to large human groups that to be saved.

Insurance, mitigates the financial losses that policy holders face under the risk management, is important from Islamic perspective to serve human beings (Abdullah, 2012). Thus, the concept of insurance is not against Islamic principles, but the elements or activities in insurance such as interest, uncertainty, and gambling are against shari'ah ruling (Kasim et al., 2016; Alhabshi, 2021). Although all Muslims need to be concerned about shari'ah teaching, some believe that the fuqaha focus on issues of traditional jurisprudence, where mitigating risk through taking insurance cover is seen as both normal and desirable. For involving in insurance, there should be a reasonable as well as justifiable situation which drives them towards insurance policy compulsory to survive his/her life and assets. The potentials to the social benefits with trust, goodwill drive to have the relationship in insurance industry for social reality with limitation (Alhabshi, 2021). Otherwise, it is advised and better for being away from the insurance. The following Quranic verse explains the situation.

*"...but whoever is compelled by hunger, not inclining willfully to sin, then surely Allah is forgiving, merciful."* (Al-Maidah (5):3)

However, most of the Islamic scholars (fuqaha) accept that insurance consists of three major prohibited elements in Islam, namely, interest (*riba*), uncertainty (*gharar*), and gambling (*maysir*) (Billah, 2003). These principles are the basis upon which the OIC Fiqh Academy has used to rule out that conventional insurance is forbidden to the Muslim community (Alamasi, 2010). Because it is an injustice and unfair treatment among the parties.

In addition, in insurance agreement, the fund that is raised through premium from the insureds is invested based on interest for gaining the profit from the amount. Islam does not permit to help the dangerous elements that will be threat for the wealthier society. When insureds are under risk, the insurance company should provide claim according to the policy. By a single insurance company to be providing claim according to the policy. The claim amount which is criticized how it is allocated, because, in insurance, insurance company (policy seller) take the responsibility to claim the insureds while they under risky situation. There should be a clarification as to how the claim amount is paid, from where is it allocated, how it (that claim amount) can be justifiable, how can the claim amount be provided instead of a small amount of premium? because, there are no chances to be compensated more than the premium amount unless they provide interest, due to no effort. Thus, a question asked as to how an insured can receive a large amount of money instead of a particular amount of premium? On contrast, *takaful* scheme has a common pool fund (*tabarru'* fund) which is automatically created by the *takaful* participants to help the other participants who are under risk/losses. Islam strictly prohibits receiving or giving more money without any efforts as it leads to interest. In addition, it might be some investments made at interest-bearing securities, equities prohibition of interest quoted in many Quran verses such as.



*“O those who believe fear Allah and give up what remains of the interest if you are believers. But if you do not, then listen to the declaration of war from Allah and his Messenger...” (Allah) he causes charitable deeds to prosper...” (Al-Baqarah (2):275-280)*

Moreover, Insurance company sells its policy to the insured based on the sale and purchase contract with mutual agreement. The insurance company will compensate in case of losses. Even though insurance consists of uncertainty and gambling, Islam ensures that these elements are not found in insurance to make permissible it. Uncertainty (*gharar*), a matter in which the insurance parties do not have a confirmation of the claim amount and method of compensation due to the availability of uncertainty. “For example, both the policy and premium are uncertain as the actual value is very much dependent upon the occurrence of catastrophe which is uncertain” (Ali et al., 2014, p.164). The way how the insurer treats insureds in the event of any risks may not be satisfactory because “the raw material is not available or the price of labour does not change, etc., then the contract of sale and purchase here is unfair” (Alhabsi et al., 2012, p.53). In terms of gambling, in the event of any losses, insured has a chance to receive more money than his small premium amount from insurer. On contrast, the insured will have to lose his/her premium amount without any gains. Islamic scholars argue that this stand being compromised with gambling (Jaffer, 2007; Kasim et al., 2016).

*“O you who believe! Intoxicants and games of chance and (sacrificing to) stones set up and (dividing by) arrows are only an uncleanness, the Shaitan’s work; shun it therefore that you may be successful...” (Al-Ma-eda (5): 90-91)*

*“They ask about intoxicants and games of chance. Say: in both there is a great sin and means of profit for men, and their sin is greater than their profit...” (Al-Baqara (2): 219)*

In addition, under the insurance framework, premium amount collected from policy holders, the compensation, claims are allocated from the company. On contrast, claim amount is reimbursed from the common pool fund that is established by the participants through their contribution as donation. In case of surplus and profit from investment, only the shareholders of the insurance company gained all returns that rises from the participants premium money, policy holders solely are being received any surplus or excess money is how it can be justified. In this respect, in takaful, the surplus amount if any in the *tabarru’* fund, and profit from the permissible investment(s) are distributed among participants, rather than, it is shared among solely shareholders (Khalid & Mohammad, 2015).

However, conventional insurance, is not totally purposely prohibited by Islam and it could be accepted under condition if it does not break the shari’ah guidelines. Interest and its related activities, uncertainty, gambling, and some investment procedures with prohibited sectors are being inconvenient activities to be accepted in shari’ah compliant. It is confirmed that once free from the shari’ah prohibited elements, insurance, like takaful, may be considered acceptance.

### **3.0 METHODOLOGY**

This study has been designed by qualitative research using library or documentary research analysis. The study is carried out as a conceptual, theoretical paper with documentary approach. This carries and collects information relevant to the study from different kinds of instruments such as research papers, books, websites, Quran and Hadiths and reports, and other all secondary data to the study. Documentary research method deeply discloses the whole evidence of documents that establishes or discovers the existence the researchers plan to study (Bailey, 1994). It tries to connect the shari’ah view with the existing and applying insurance principles to provide theoretical or philosophical understanding to the readers. According to Payne & Payne (2004), the documentary method as the technique is used to categorize, investigate, interpret, and identify the limitations of physical sources, most commonly written documents whether in the private or public domain”. Library research approach always provides theoretical implications through consist of the

secondary sources, and its cognitively contribute to the development of the concept and understandings to the literature. The objectives of the study in documentary studies are reached that review of passed literature works are selected, reviewed, and analysed under a common purpose which creates new themes, idea, and view. These kinds of research bring strong findings with deeper perspective towards a better conclusion (Kasim et al., 2016).

## **4.0 RESULTS AND DISCUSSION**

### Shari'ah View on the Insurance Principles

The insurance scheme is practiced by its basic 06 principles (Hansell, 1999) which are (1) utmost good faith; (2) insurable interest; (3) indemnity; (4) proximate cause; (5) subrogation; and (6) contribution (Alhabsi et al., 2012; Ahcene, 2016). Even though takaful is an alternative approach for the insurance, these primary indexes are being applied in takaful scheme. The following discussion focuses on how Islam tolerates or agrees to consume these principles.

#### **Utmost Good Faith**

According to the law of insurance, both party: insurer and insured must disclose all relevant fact of materials at the time of contract (Jeffrey et al., 2011). According to Shari'ah Advisory Council (SAC) of Bank Negara Malaysia (SAC, 2010), this is required to be aware by both parties particularly insureds. The material facts should be disclosed relevantly, example; medical report with history for the life insurance is not considered for the general insurance, because medical, health conditions are related to life (Ahcene, 2016). When the proposer (means insured) proposes an offer to the insurer with the intension of purchasing insurance policy, if he or she discloses all materials as duty of him or her, the insurer can decide whether the proposed matter be accepted or rejected (Shamsi et al., 2018).

Islam guides its followers with good moral values, norms, and ethics (*akhlāq*). Takaful contract parties: takaful company and participants, should be truthful to each other and all information regarding agreement should be transparent because Islam strongly prevents cheating others. Quran and Sunnah guide the whole community to be truthful, honest, and transparent. From prophet Mohamed's (PBUH) life historically provides many teaching as role model for the human beings.

*“And do not drive away those who call upon their Lord in the morning and the evening, they desire only his favour; neither are you answerable for any reckoning of theirs, nor are they answerable for any reckoning of yours, so that you should drive them away and thus be of the unjust.”* (Al-Anaam (6): 52)

In business context, the partners who are associated to a specific objective should behave in a way which does not affect or hurt others, because many business partners involve in cheating another one, making untransparent relationship and preparing fake statement to cheat others which are clearly prohibited in Islamic commercial law. This kind of bad characters were identified and demolished via revelation. Al Quran clearly explains that business partners should be with good characters.

*“And if two parties of the believers quarrel, make peace between them; but if one of them acts wrongfully towards the other, fight that which acts wrongfully until it returns to Allah's command; then if it returns, make peace between them with justice and act equitably; surely Allah loves those who act equitably.”* (Al-Hujraat (49): 9)

*“O you who believe! Do not devour your property among yourselves falsely, except that it be trading by your mutual consent; and do not kill your people; surely Allah is Merciful to you.”* (An-Nisa (4): 29)

Furthermore, Shari'ah Advisory Council (SAC) of Bank Negara Malaysia also has resolved that even though the utmost good faith is applied in insurance, for confirming the disclosure of all information, it can be applied in takaful applications at the 52<sup>nd</sup> meeting on 2<sup>nd</sup> August 2005. The following qur'anic verse and Hadith demonstrate the ruling.

“O you who believe! Remain conscious of Allah and be with the truthful.” (Al-Tauba (9): 119)

And Abu Sa’eed (RA) narrated as prophet (PBUH) said; “An honest trader will be living in hereafter with the prophets, the honest & truth people and martyrs.” (Sunan al Tirmidhi: 1209)

### **Insurable Interest**

Insurable interest has no conflict with shari’ah law, and it can be applied for takaful too (SAC, 2010). This is the right to engage in the insurance contract in which the insured has enough ownership of what he/she insures. This makes the legally or financially binding relationship between both parties, insurer and insured (Swisher, 2005; SAC, 2010). The insured has full (or partial) interest on the parties who are considered such as wife’s life, children, parents (Fischer, 1981; Shamsi et al., 2018) based on blood, marriage, love, affection, and commitment (Swisher, 2005). Saa’d bin Abi Waqqas (RA) reported that the messenger of Allah said.

“...To leave your heirs rich better than to leave them poor, begging from people; that would never incur an expense seeking they’re with the pleasure of Allah, but you would be rewarded therefor, even for a morsel of food that you put in the mouth of your wife....” (Sahih Muslim: 3991)

The above hadith teaches us to better understand the importance of looking after our kith and kin as well as the responsibility of caring for the dependents. One should save or leave even a low portion of asset for them to ensure their survival. It includes food & beverage, health, education, other needs such as residence and clothing (Yusuf and Abdullahi, 2016). In this respect, a person can insure for his dependents.

In addition, one can insure on other people. Furthermore, as per the insurable interest, a person should have some financial benefits from the nominee to be insured if he must insure for that nominee. Otherwise, no one can be benefited from non-closed relations. According to Yusuf and Abdullahi (2016), a person must stand with a financial loss and suffering from the loss. The reason why a person cannot insure on another person’s asset and life unless he (who has insurable interest) has some financial benefit from the person who is nominated to be insured. In this respect, Abu Huraira (RA) narrated that the following incident.

“The Messenger of Allah owed a man some debt (and that man demanded it very harshly). The companions of prophet wanted to harm him, but the prophet said to them, “leave him, as the creditor has the right to speak harshly.” He then added “buy (a camel) of the same age and give it to him. ....” (Sahih al Bukhari: 2606)

According to the above hadith, it is permitted to take restricted rights which shows that someone can be entitled to take specific care on some others in a particular situation. In addition, Abu Hurairah (RA) reported as prophet Mohammad (PBUH) said; “Part of someone’s being a good Muslim is his leaving alone that which does not concern him.” (Abudhawud)

On the other hand, the application will not be considered as being insurable interest while a person applies for another person on which there is no relationship for the insurable interest (SAC, 2010). For example, distant family members such as mother-in-law, uncle, son in law who cannot be considered to insure in the contract.

Insurable interest principle is reducing the risk, but it is not promoting gambling (Alhabshi et al., 2012). According to Section 335 of Gambling Act 2005 of United Kingdom (was replaced instead of Section 18 of Gambling Act 1845), if there is no stance of losing the capital and getting only the benefits, then it is a form of gambling in the light of shari’ah. Generally, there must be exist the insurable interest when, the time of damage or loss in general insurance and at time of inspection in life insurance as well. If anyone is insured with insurance policy without insurable interest on financially stand as recognized, the person has lack of legal requirement to fulfill one of the principles that is the insurable insurance (Ahcene, 2016; Yusuf & Abdullahi, 2016). The concept of *tabarru* states that the participants agree to mutual help among the participants who



gathered with takaful policy, there is an interest of involving in takaful. Thus, insurable interest can be applied in takaful (SAC, 2010).

### **Indemnity**

Indemnity is guaranteeing, protecting the financial loss of the insureds which arises on their capitals (Bazvand, 2016). This principle aims to restore his/her financial loss to up-lift him/her to the same financial position before the loss he faced including security costs, damages for the property and partnership, insureds' estates, heirs or legal representatives (Robert & Chris, 2014; Gasia, 2016; IAEA, 2018). However, only the actual losses happened is recovered by the policies, but not the profit, including security cost, damages of property and partnership, and heirs or legal representative (IBSL, (n.p); Bazvand, 2016). It can be discussed that it is a key stage of insurance or takaful policies as the participants who join via periodical premium or contribution really expect their losses to be reimbursed by the policy took. In this regard, in insurance, even though insurers may arrange the actual indemnity, policyholders reach their intension through the insurance policy. Islam (Quran and Sunnah) permits to get the compensation while under pressure due to lose our asset. It is noted that it can be either a family member or an asset.

Abu Hurairah reports that the prophet Mohammad (PBUH) said.

*“Whoever suffers the killing of a close relative of the family has two better options; either to kill (the offender) or accept the indemnity.”*

And,

*“He who kills a believer by mistake must free a believing soul from bondage and pay an indemnity to his family...”*  
(An- Nisa (4):92)

Indemnity principle avoids the element of gambling like insurable insurance, where if insureds would be able to receive more amount of claim than what he/she lost from the incident. However, in case of major claim process in family takaful, it is questionable that this principle can imply the life insurance, because life insurance policies are not included in a particular or extract amount, called “benefit policies”. The value of human being's soul and their parts of body cannot be evaluated. Therefore, whole amount or determined amount is contributed to life insureds while they are under peril. In this respect, in early period of family takaful establishment, some scholars argued that how a human being can be measured by another human being, thus, in family takaful, permanent disabled and death moved to major claim while ordinary surgical, hospitalization, accident and temporary move to minor claims (Alhabsi et al., 2012). Through minor claim can be measured based on the expenses based on this indemnity principle.

### **Significance of Takaful in Shari'ah Perspective**

The following concepts in Islam consolidate the necessity of takaful scheme. Thus, it is evident that takaful is an important concept in Islam. This section provides a clear understanding of philosophical aspects of takaful, where discussed how Islam boosts behind of the risk sharing system. This section of this paper examines the importance of risk sharing mechanism to protect the assets and properties. It aims to educate the significance of takaful system and plays a key role in protecting through mitigating risks. Thus, in this section, some major approaches are examined with shariah view.

### **Mutual assistance (*Ta'awun*)**

The concept of takaful is often compared to the conventional model of mutual cooperative insurance. Takaful concept has been built up based on the view, where the conventional insurance is differing from the takaful policy (Salman, 2014). Every participant agrees to understand and to help each other who are involving/ participating in the mutual pooling system. This concept of the policyholders contributing funds into a pool to protect each other against specified risk event-

the pool being managed by an operator or management company (Dikko,2014), and the concept of sharing technical and investment surpluses with the policyholders, rather than accruing to the shareholders of the operator. The almighty Allah says about the mutual assistance directly in the holy Quran.

*“Help you one another in Al-Birr and At-Taqwa (virtue, righteousness, and piety); but do not help one another in sin and transgression. And fear Allah. Verily, Allah is severe in punishment.” (Al-Maidah (5):2)*

The messenger of Allah, Prophet Mohammed (SAW) directed us as follow.

*“Allah always helps his servant for those who help and being helpful to others” (Ahamed and Abudawud).*

These Quran and Sunnah verses openly disclose about the importance of assisting or being helpful to others in the right ways that are under the guidance of shari’ah. According to the Shari’ah Resolutions in Islamic Finance of Bank Negara Malaysia (BNM), *Ta’awun* concept is also considered as an alternative approach to the conventional insurance, with Shari’ah compliant (SRIFBNM, 2010). In insurance, there is no common good intention to help each other, where risk is transferred to another party, surplus money is belonged to the shareholders of the company. But takaful concept is based on solidarity and help each other under a common goal, this drives the people to help and support other human beings while they are not wealthy. Moreover, all participants are entitled for a particular portion of surplus money who have joined together with good intention of helping other participant when he/she lost.

### **Solidarity/Unity**

Today’s world still expects solidarity. Islamic insurance is called as ethical insurance (Azmi, 2015) and social insurance under Islamic finance as it is bringing so many benefits to the society (Marikar, 2015). Although takaful practice is not directly named in the Quran and Sunnah (Salman, 2014), Quran verses and teaching of the messenger of Allah teach us towards solidarity and brotherhood. The Al-Quran is not missing to say the solidarity by looking after the other while they are suffering.

*“And hold fast by the covenant of Allah all together and be not disunited, and remember the favour of Allah on you when you were enemies, then he united your hearts so by his favour you became brethren;” (Aal-e-Imran (3):103)*

*“Surely they who divided their religion into parts and became sects, you have no concern with them; their affair is only with Allah, then he will inform them of what they did” (Al-An-aam (6):159)*

Takaful concept openly tells the world that pooling system denotes solidarity, taking and sharing risk on behalf of another participant. The amount is contributed to extend helping hands to brothers/ sisters altogether with the pool based on brotherhood and unity. According to Shari’ah Advisory Council (2010) of Malaysia, participants are united with a unique goal in paying contribution, receiving claims & owning the fund, donating assets based on solidarity by the takaful policy.

Moreover, the surplus money is also shared among the participants after paying the claims as well as other expenditures such as tax, re-takaful like sharing the risk together. So, takaful concept discloses that all are shared either it can be pain or gain or good or bad in the takaful concept (Kasim et al., 2016).

### **Sharing Responsibility/Guaranteeing Compensation**

Participants agree to cover the losses and damages occurred among the pooling members by sharing the risk happening by death, accidents, disasters, so on. It emphasises on the liability on others regarding their takaful agreement. Normally, takaful contract is made by participants based on the concept of rights and obligations under the mutual assistance, as well as agreement to take the claims when facing losses (Salman, 2014). For example, in case of vehicle accident, it emphasizes that the participants have the liability or obligation to help victim, and the victim has

the right to take the claim from the pool fund. Therefore, the victim or any person with the boundary of the agreement is guaranteed to keep or recover the property that he/she lost.

Al Quran clearly says about the situation.

*“...Who feeds them against hunger and gives them security against fear.”* (Quraysh (106): 04)

Moreover, before Islam, there were many practices in the society with an acceptance of “urf” (“recurring practices which are acceptable to people of sound nature”) named as Al Aqilah. In that society, revenge was practiced as a common thing, and if anybody was killed by someone, ‘blood-letting’, or ‘blood-money’ payment system was in practice in that society, so that the family of the murdered will be benefitted. This system was called as “Al- Aqilah” or “Ma’aqil”. Later, this practice was affirmed by the prophet Mohammed (PBUH) (Yassin & Ramly, 2011; Kasim et al, 2016).

Abu Hurarira (RA) narrated as Mohamed (PBUH) said that *“... if anyone work for a poor or a widow to recover his/ her crisis, is like a person who prayed all the night and being fasting the during of whole day...”* (Sahih al Bukhari)

### **Principle of Ethical Value and Contract**

The word Ethics is derived from the Greek word “ethos”, which is not a rule to direct the people, but it is accepted related to morality, knowledge and acquiring experience in order to obey other people in the society. Taking care of others, besides oneself and his/her close relatives such as parents, wife, and children, is a significant worship in Islam. In addition, feeding the needy and other good practices are considered ethical and moral that were emerged from a particular society according to society’s expectations (Immanuel, 2015). In the perspective of takaful, participants are making promises to help the victim among themselves. According to Ahamed (2015), moral and ethics consist of many values such as goodness (*Khair*), God consciousness (*Taqwa*), justice (*Adl*), righteousness (*Birr*), truth (*Haq*) and equity (*Qist*). These values are affecting an effective business contract among the participants and takaful operator. Human beings seek an ethical and just business environment where they can finance, participate, and invest their capital without being involved in prohibited acts.

The beliefs of Islam ‘Tawhid’ was built up with moral combination, directing the people towards the good character with ethics and morality. Allah provided set of morals through the messenger of Allah SAW.

*“O who believe! enter into submission one and all and do not follow the footsteps of Shaitan.”* (Al-Baqara (2): 208)

This verse is applicable in personal life, family life as well as in business contract. Business establishments need to be responsible to the society. Ethically, takaful is made as an agreement like other contracts within the field of Islamic finance. Basically, takaful agreement happens between the insurer (takaful company) and insured (policyholder) with the offer and acceptance (Billah,2003). Takaful is an ideal legally bound agreement (Al-Aqd) among the participants under the mutual assistance, solidarity, brotherhood towards *Maslahab al Mursalah*, where if the participant who has a takaful certificate is suffering from the loss or peril or hazard, the other participants agree to share (Billah, 2003).

Takaful contract always fulfils the requirements of the contract. In the case of takaful policy, takaful operator (takaful company), policy holders (participants), consideration, content of the contract, objective of the contract, offer and acceptance should be clearly defined as these are inevitable for a good contract.

Almighty Allah says.

*“Oh, who believe! Fulfill the obligations”* (Al-Maidah (5):1)

“...and fulfill the promise; surely (every) promise shall be questioned about.” (Al-Isra (17):34)

## 5.0 CONCLUSION

According to scholars, any conditions or regulations can be applied in Islamic transactions if these conditions comply with shariah principles. In this respect, insurance scheme is used as a risk management tool to minimize or recover the financial losses which the policyholders face. The concept of insurance is not against the Shari’ah, but it consists of activities that are against the Shari’ah principles (Kasim et al., 2016). It is noted that not only in takaful, but also in any of the Islamic products and services, conventional financial system can be used if there is no contradiction with principles of shari’ah. Thus, according to the Islamic commercial law, the elements of interest, gambling and uncertainty are mainly being involved in insurance, the financial sector may be involved apart from the prohibited elements of Islam. Accordingly, the principles of insurance that are used in takaful such as utmost good faith, insurable interest and indemnity can be considered as operational conditions as they comply with shari’ah principles. For example, there are some conditions that need to be fulfilled when the contract is made such as buyer & seller, price, offer and acceptance, witness. Likewise, takaful scheme also uses some instructions provided by sources of Islamic law. However, insurance practice clearly engages in interest, uncertainty, and gambling, which are entirely prohibited in Islam. Principles that are explored here control or drive the implementation of both insurance and takaful, according to the view, there are so many evidence and supportive arguments prefixed (Alhabsi et al., 2012; Matenggo, 2020). In addition, it brings the Shari’ah view behind takaful scheme demonstrating how the presently applicable principles in insurance are important in the field of risk management.

This study contributes to provide shariah knowledge on insurance principles that are applied for takaful scheme with difference. Moreover, it educates on how Islam permits insurance principles to takaful system based on securing human beings. Insurance which is designed based on conventional financial system is not acceptable in shari’ah due to its activities, nevertheless by applying Shari’ah views on takaful in the light of Al Quran and Al Hadith, this can be made permissible. Thus, it gives confidence to takaful practitioners, participants, public, and researchers on takaful industry. This study consists of theoretical implication through a clear knowledge on how the rules, principles and regulations which are applied in Islamic products and services industry although those are applied in conventional industry. Takaful participants should have better understanding on the principles what they include and what they exclude in shariah perspectives (Lahsasna, 2016; Noor Mohd et al., 2018). According to the Islamic basic that “all subjects are permissible except unpermissibles”, means, only a few things notified in Islamic rulings should not be carried. The researchers firmly believe that this aspects on the principles teach its shariah’s stance.

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